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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,685

12/31/2003

George Fitzmaurice

1252.1083

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21171

7590

08/08/2006

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EXAMINER

NGUYEN, LE V

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,685

Applicant(s)

FITZMAURICE ET AL.

Examiner

Le Nguyen

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) 19-22, 24 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 18, 23 and 25 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/24/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/31/03 & 6/24/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-18, 23 and 25, drawn to focus control of multiple diverse workspace objects, classified in class 715, subclass 767.
  - II. Claims 19-22, drawn to a method wherein a path or shape described by user input is indicative of a desired operation, classified in class 715, subclass 863.
  - III. Claims 24 and 26, drawn to a computer readable storage wherein a storage system is used for storing window data for display, classified in class 715, subclass 806.
2. Inventions Group II and Inventions Group I & III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, Group I can be used in a different process such as a voice activation system, which does not require pen based strokes. Group III can be used in a different process, wherein layer editing is performed using voice commands.

Inventions Group III and I are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for

patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require the pop-up menu of the subcombination. The subcombination has separate utility such as the layer editor can be used without a display.

3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Ms. Linda Woods on June 29, 2006, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18, 23 and 25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-22, 24 and 26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

***Information Disclosure Statement***

5. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application. It is noted that AK and AL are cites to executable hyperlinks. In accordance with MPEP 608.01, applicant may not have executable hyperlinks. It is suggested that an executable link should be limited to the URL only as set forth in MPEP 608.01. In addition, no date certain has been provided for either cite.

This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

***Oath/Declaration***

6. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

***Drawings***

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because: "visual indicator" in line 1 of page 5 and "frame graphic" in line 3 of page 5

have not been shown in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "32", used in the specification to designate both "visual indicator" and "frame graphic", is not shown in any drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

8. The specification is objected to because the drawings include the following reference character(s) not mentioned in the description: "34" of fig. 1. Moreover, visual indicator 32 and frame graphic 32 is confusing because both have the same reference numeral. Two different structures must be designated using different reference numerals.

The disclosure is objected to because of the following informalities: "clicking on the status icon pop-ups of the marking menu of the menu target area" in lines 7-8 of section [0026] and "this pops-up a menu of commands that can be applied to the pressed on a layer" in lines 3-4 of section [0028] appear to contain grammatical errors.

Appropriate correction is required.

***Claim Objections***

9. Claims 4, 5, 7, 8 and 17 are objected to because of insufficient antecedent basis for these limitations in the claims:

a) claim 4 recites the limitations "the graphic" in line 4 of claim 4 and "the targets" in line 4 of claim 4;

b) claim 7 recites the limitation "the user" in line 2 of claim 7; and

c) claim 8 and 17 recite the limitation "the distance error accuracy" in line 2 of claim 8 and line 10 of claim 17. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 9, 13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 contains the awkward grammatical structure "a marking menu layer editing menu" in lines 1-2 of claim 9. It is unclear whether applicant intends to provide a marking menu for a layer editing menu or that the layer-editing menu is of a marking menu type. The examiner will interpret the claim to mean the latter.

Claim 13 recites the limitation "hidden/visible (locked or unlocked?)" in line 2 of claim 13. It is unclear whether the parenthetical is a limitation of the claim, especially in light of the question mark. Furthermore, hidden/visible should be hidden or visible to clearly set them as alternatives.

Claim 15 recites the limitation "one of the controls" in line 1 of claim 15. There is insufficient antecedent basis for this limitation in the claim. In claim 6 from which claim 15 depends, only a single control is provided.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –



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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 4, 5 and 25 are rejected under 35 U.S.C. 102(a) as being anticipated by Quartetti.

As per claim 4, Quartetti teaches a layer editor interface comprising layer representation graphics having layer names and selection targets with a box shape (figs. 1-12B; col. 4, lines 10-11 and 53-54) and controls associated with the graphic that are coincident with the targets (figs. 1-12B, *elements such as "▼" and the eye icon*).

As per claim 5, Quartetti teaches a layer editor interface wherein a status indicator overlaps the selection targets (figs. 4 and 12B; *status such as lock/unlock and collapse/expand*).

As per claim 25, Quartetti teaches an apparatus comprising a display and a processor displaying a layer editor interface on the display, the interface comprising a layer representation graphic having a user entered graphic name (figs. 1-12B; col. 4, lines 10-11 and 53-54) and a corresponding control (figs. 1-12B; col. 3, lines 26-30 and 53-61; col. 4, lines 62-67; col. 6, lines 26-27).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-3, 6, 7, 9-14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quartetti in view of Benson et al. ("Benson").

As per claim 1, although Quartetti teaches a layer editor interface comprising layer representation graphic having layer names (figs. 1-12B; e.g. "*Layer 1*", "*Layer 2*", etc.) and a control activatable for each layer that allows the layer to be edited (col. 4, lines 62-67), Quartetti does not explicitly disclose the control being one of a pop-up menu control. Benson discloses prior art teachings of a control being one of a pop-up menu control (col. 1, lines 10-12). It would have been obvious to an artisan at the time of the invention to incorporate the method of Benson's prior art teaching with the method of Quartetti in order to prompt users for information on a need basis only while maximizing limited display space.

As per claim 2, although the modified Quartetti teaches a layer editor interface comprising a pop-up menu control (Benson: col. 1, lines 10-12; Quartetti: col. 4, lines 62-67), the modified Quartetti does not explicitly disclose the pop-up menu control being of a marking type where selection is made upon activation of one of the controls. Benson teaches a marking menu type selection (figs. 3 and 4; col. 3, line 16). It would have been obvious to an artisan at the time of the invention to incorporate the method of Benson with the modified method of Quartetti given user's familiarity with marking via a pen or stylus, making it easier to adopt especially for a small display screen of a handheld device.

As per claim 3, the modified Quartetti teaches a layer editor interface wherein the marking menu control includes selections for new layer (Quartetti: col. 3, lines 53-56),

clear layer (Quartetti: col. 3, lines 10-14; col. 5, lines 1-6; col. 7, lines 43-46), rename layer (Quartetti: col. 4, lines 10-11), delete layer (Quartetti: col. 7, lines 43-45), merge layer (Quartetti: Abstract; col. 3, lines 11-14; col. 6, lines 6-19; col. 9, lines 4-8), lock layer (Quartetti: col. 7, line 43), hide layer (Quartetti: col. 3, lines 45-47; col. 4, lines 62-67; col. 7, line 43) and position layer (Quartetti: col. 5, lines 1-11 and 34-38).

As per claim 6, although Quartetti teaches an interface comprising layer representation graphic having layer names inputable by a user and displayable (figs. 1-12B; col. 4, lines 10-11 and 53-54) and a control associated with the graphic that allows a corresponding layer to be edited (col. 3, lines 26-30 and 53-61; col. 4, lines 62-67; col. 4, lines 10-11 and 53-54; col. 6, lines 26-27), Quartetti does not explicitly disclose the input being hand drawn strokes. Benson teaches the input being hand drawn strokes (col. 3, line 16). It would have been obvious to an artisan at the time of the invention to incorporate the method of Benson with the method of Quartetti given user's familiarity with hand drawn strokes via a pen or stylus, making it easier to adopt especially for a small display screen of a handheld device.

As per claim 7, the modified Quartetti teaches an interface comprising: a drawing dialog box invoked by the control (Quartetti: col. 3, lines 26-30 and 53-61; col. 6, lines 26-27; Benson: col. 3, line 16) and allowing the user to input the layer names (Quartetti: figs. 1-12B; col. 4, lines 10-11 and 53-54; *layer identities/names*).

As per claim 9, the modified Quartetti teaches an interface wherein the control invokes a marking menu layer editing menu (Benson: col. 3, line 16; Quartetti: col. 3, lines 26-30 and 53-61; col. 4, lines 62-67).

As per claim 10, the modified Quartetti teaches an interface wherein an active layer is highlighted with a frame surrounding the name (Quartetti: col. 4, lines 42-52).

As per claim 11, the modified Quartetti teaches an interface wherein each layer control comprises a marking menu control for layer editing (Benson: col. 3, line 16; Quartetti: col. 3, lines 26-30 and 53-61; col. 4, lines 62-67), a move control for moving a position of a layer in a layer editor stack (Quartetti: col. 5, lines 1-11 and 34-38) and a transparency control controlling the transparency of a corresponding drawing layer (Quartetti: figs. 4 and 12B; col. 3, lines 46-48; col. 4, lines 62-67; col. 7, lines 42-43; *hidden/not visible*).

As per claim 12, the modified Quartetti teaches an interface wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is hidden/visible (Quartetti: figs. 4 and 12B; col. 3, lines 46-48; col. 4, lines 62-67; col. 7, lines 42-43).

As per claim 13, the modified Quartetti teaches an interface wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is hidden/visible (locked or unlocked?) (Quartetti: figs. 4 and 12B; col. 3, lines 46-48; col. 4, lines 62-67; col. 7, lines 42-43).

As per claim 14, the modified Quartetti teaches an interface wherein a background layer has a text label (Quartetti: figs. 1-12B; col. 4, lines 10-11 and 53-54; *inherent given that all layers have some kind of identifier whether it be a default one or user specified one*).

As per claim 16, the modified Quartetti teaches an interface wherein making a gesture in association with the layer representation graphic initiates a function with respect to one or more of the layers (Benson: col. 3, line 16; Quartetti: col. 3, lines 26-30 and 53-61; col. 4, lines 62-67).

As per claim 18, although Quartetti teaches a layer editor comprising: a linear list of layers and a menu accessible through the layer list and providing layer editing functions (figs. 1 and 5; col. 3, lines 5-7, 26-30 and 53-61; col. 6, lines 26-27), Quartetti does not explicitly disclose the menu being one of a marking type. Benson teaches a menu being one of a marking type (figs. 3-5; col. 3, line 16). It would have been obvious to an artisan at the time of the invention to incorporate the method of Benson with the method of Quartetti given user's familiarity with marking via a pen or stylus, making it easier to adopt especially for a small display screen of a handheld device.

16. Claims 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quartetti in view of Benson et al. ("Benson"), and further in view of Mizobuchi et al. ("Mizobuchi")

As per claim 15, although the modified Quartetti teaches an interface comprising activation of one of the controls via a mark to select a corresponding layer and to select an operation on the layer (Benson: col. 3, line 16; Quartetti: figs. 1-12B; col. 3, lines 26-30 and 53-61; col. 4, lines 62-67), the modified Quartetti does not explicitly disclose marking to simultaneously select and select an operation. Mizobuchi teaches marking to simultaneously select and select an operation (figs. 3A-3B; sections [0027]-[0028]). It would have been obvious to an artisan at the time of the invention to incorporate the

method of Mizobuchi with the method of the modified Quartetti in order to avoid inadvertent and unwanted object selections and activations.

As per claim 23, although the modified Quartetti teaches a layer editor comprising allowing the user to invoke the layer editing operation via a mark and to select an operation on the layer (Benson: col. 3, line 16; Quartetti: figs. 1-12B; col. 3, lines 26-30 and 53-61; col. 4, lines 62-67), the modified Quartetti does not explicitly disclose marking to simultaneously select and select an operation. Mizobuchi teaches marking to simultaneously select and select an operation (figs. 3A-3B; sections [0027]-[0028]). It would have been obvious to an artisan at the time of the invention to incorporate the method of Mizobuchi with the method of the modified Quartetti in order to avoid inadvertent and unwanted object selections and activations.

### ***Allowable Subject Matter***

17. Claim 17 is allowed.

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. The following is an examiner's statement of reasons for allowance:

The prior art made of record fails to anticipate or make obvious the claimed invention. Specifically, the prior art fails to teach, in combination with the remaining elements:

a layer editor interface wherein the graphic/controls have a target size of at least  $2e$  where  $e$  is the distance error accuracy of an input device as recited in claims 8 and 17.

Although Quartetti and Benson teach a substantial amount of the claimed matters, Quartetti and Benson fail to anticipate or render the above underlined limitations obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamburg et al. (US 7,062,497 B2) teach maintaining document state history.


20. This Office action has an attached requirement for information under 37 CFR 1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

***Inquires***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is **(571) 272-4068**. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at (571) 272-4063.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LVN  
Patent Examiner  
July 23, 2006